

ESTTA Tracking number: **ESTTA555050**

Filing date: **08/20/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	LFP IP, LLC
Granted to Date of previous extension	08/24/2013
Address	8484 Wilshire Boulevard Suite 900 Beverly Hills, CA 90211 UNITED STATES
Attorney information	Jonathan W. Brown Lipsitz Green Scime Cambria LLP 42 Delaware Avenue Suite 120 Buffalo, NY 14202 UNITED STATES ip@lglaw.com Phone:716-849-1333 Ext. 371

Applicant Information

Application No	85736967	Publication date	06/25/2013
Opposition Filing Date	08/20/2013	Opposition Period Ends	08/24/2013
Applicant	Brazle, Semetra 11702 Mill Valley Rd Houston, TX 77048 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: T-shirts

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2689852	Application Date	10/16/2000
Registration Date	02/25/2003	Foreign Priority Date	NONE
Word Mark	HUSTLER		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1998/12/03 First Use In Commerce: 1998/12/03 clothing, namely, beach wear, blouses, coats, coveralls, dresses, head wear, jackets, jeans, jogging suits, jumpers, leg warmers, leggings, lingerie, lounge wear, neckwear, pants, scarves, shirts, ski wear, slacks, sleep wear, tank tops, socks, vests

U.S. Registration No.	3149102	Application Date	03/11/2003
Registration Date	09/26/2006	Foreign Priority Date	NONE
Word Mark	HUSTLER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2006/06/10 First Use In Commerce: 2006/06/10 footwear, namely, all types of shoes, boots, slippers, thongs and socks		

U.S. Registration No.	3166771	Application Date	08/09/2005
Registration Date	10/31/2006	Foreign Priority Date	NONE
Word Mark	HUSTLER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 026. First use: First Use: 2004/04/30 First Use In Commerce: 2004/04/30 (Based on Use in Commerce) Men's and women's belt buckles not of precious metal Class 034. First use: First Use: 2005/10/28 First Use In Commerce: 2005/10/28 Cigarette lighters not of precious metal		

U.S. Registration No.	2679483	Application Date	10/16/2000
Registration Date	01/28/2003	Foreign Priority Date	NONE
Word Mark	HUSTLER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 1999/09/20 First Use In Commerce: 1999/09/20 men's and women's jewelry, namely, rings, necklaces, bracelets, [watches] Class 021. First use: First Use: 2000/10/01 First Use In Commerce: 2000/10/01 glassware, namely, shot glasses, mugs, beer steins		

U.S. Registration No.	4312312	Application Date	07/19/2012
Registration Date	04/02/2013	Foreign Priority	NONE

		Date	
Word Mark	HUSTLER HOLLYWOOD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1998/12/03 First Use In Commerce: 1998/12/03 Retail store services featuring digital video discs, adult sexual stimulation aids, apparel, lingerie, hats, cosmetics, candles, perfumes, shave creams, bath and body products, personal lubricants, body creams, novelty items, party games, playing cards, candies, jewelry, books, magazines, condoms, and lotions		

U.S. Registration No.	2772467	Application Date	04/08/2002
Registration Date	10/07/2003	Foreign Priority Date	NONE
Word Mark	HUSTLAZ		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2002/12/03 First Use In Commerce: 2002/12/03 providing an online interactive Web site featuring adult entertainment		

Attachments	Scan.pdf(237716 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jonathan W. Brown/
Name	Jonathan W. Brown
Date	08/20/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE

TRADEMARK TRIAL AND APPEAL BOARD

In re Application No. 85/736,967

Filed: September 24, 2012

Published: June 25, 2013 in the Official Gazette

For: **LADY HUSTLAZ**

LFP IP, LLC,

Opposer,

v.

SEMETRA BRAZLE,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Opposer LFP IP, LLC (“Opposer” or “LFP”), a Delaware limited liability company, located and doing business at 8484 Wilshire Boulevard, Suite 900, Beverly Hills, California 90211, believes that it would be damaged by the registration on the principal register of the mark LADY HUSTLAZ shown in Application Serial No. 85/736,967, filed by Semetra Brazle (“Applicant”), an individual with a mailing address of 11702 Mill Valley Road, Houston, Texas 77048, and published in the Official Gazette on or about June 25, 2013, and hereby opposes registration thereof.

As grounds for opposition, LFP alleges:

1. Opposer LFP is the owner of the famous HUSTLER brand used in connection with various goods and services. LFP is the owner of, is currently using, and has itself and through its licensees and predecessor(s)-in-interest continuously used the famous HUSTLER mark in U.S. commerce for approximately 40 years.

2. Opposer owns numerous federal registrations on the Principal Register for its HUSTLER mark and various related and composite marks, including the related HUSTLAZ mark, many of which have become incontestable within the meaning of the Lanham Act. Such registrations include, but are not limited to, the following:

Trademark	Reg. No.	First Use	Goods or Services
HUSTLER	2,689,852	1998	clothing, namely, beach wear, blouses, coats, coveralls, dresses, head wear, jackets, jeans, jogging suits, jumpers, leg warmers, leggings, lingerie, lounge wear, neckwear, pants, scarves, shirts, ski wear, slacks, sleep wear, tank tops, socks, vests.
HUSTLER	3,149,102	2006	footwear, namely, all types of shoes, boots, slippers, thongs and socks.
HUSTLER	3,166,771	2004	men's and women's belt buckles not of precious metal.; and cigarette lighters not of precious metal.
HUSTLER	2,679,483	1999	men's and women's jewelry, namely, rings, necklaces, bracelets, watches; and glassware, namely, shot glasses, mugs, beer steins.
HUSTLER HOLLYWOOD	4,312,312	1998	retail store services featuring digital video discs, adult sexual stimulation aids, apparel, lingerie, hats, cosmetics, candles, perfumes, shave creams, bath and body products, personal lubricants, body creams, novelty items, party games, playing cards, candies, jewelry, books, magazines, condoms, and lotions.
HUSTLAZ	2,772,467	2002	providing an online interactive Web site featuring adult entertainment.

3. LFP's marks referred to above will be collectively referred to herein as the "HUSTLER Marks" or "LFP's Marks."

4. As a result of LFP's extensive advertising, sales, and marketing, the HUSTLER Marks are famous and well known to purchasers.

5. By virtue of its extensive use and promotion of the HUSTLER Marks, LFP has established valuable goodwill in the HUSTLER Marks, and the public has come to associate LFP's Marks with LFP and its famous founder, Larry Flynt. As such, the HUSTLER Marks have become distinctive and the public has come to know the HUSTLER Marks as an indication of goods and services that originate from Opposer.

6. On January 9, 2013, Applicant filed U.S. Trademark Application Serial No. 85/819,577 based on her use of the mark "LADY HUSTLER" in connection with "T-shirts."

7. On May 22, 2013, the United States Patent and Trademark Office issued a Trademark Act Section 2(d) Refusal against the LADY HUSTLER Mark citing a likelihood of confusion with LFP's Marks (namely, U.S. Registration Nos. 2689852, 3149102, and 3166771).

8. On June 4, 2013, following Applicant's May 22, 2013 Response to the Office Action cited in Paragraph 7 of this Opposition, the United States Patent and Trademark Office made Final the Trademark Act Section 2(d) Refusal against the LADY HUSTLER Mark.

9. On September 24, 2012, Applicant filed U.S. Trademark Application Serial No. 85/736,967 based on her asserted intent to use the mark "LADY HUSTLAZ" in connection with "T-shirts." Applicant's "LADY HUSTLAZ" mark referred to hereinabove will be referred to as "Applicant's Mark" or the "Application."

10. The term "Hustlaz" is a phonetic equivalent of "Hustler(s)" and/or is highly similar to LFP's famous HUSTLER brand and marks. In fact, on September 28, 2012, the

United States Patent and Trademark Office assigned Applicant's Mark the pseudo mark of "LADY HUSTLERS".

11. Applicant's "LADY HUSTLAZ" uses the descriptive term "Lady" and mark includes and incorporates LFP's entire HUSTLAZ mark.

12. The goods identified in the Application are identical and/or highly related to the goods and services identified in LFP's registrations and applications for the HUSTLER Marks, and with which LFP has been using its HUSTLER Marks for many years.

13. The goods and/or services identified in the Application are likely to be sold and/or distributed through the same channels of trade and to the same class of purchasers as Opposer's goods and/or services sold and/or distributed under its HUSTLER Marks.

14. On information and belief, Applicant selected the HUSTLAZ portion of the mark as a direct reference to Opposer's HUSTLAZ mark and/or LFP's famous HUSTLER marks. Applicant intends to profit from LFP's name and goodwill by creating a misleading association between Applicant's mark and services and those of Opposer, thereby diluting the HUSTLER Marks, and creating a misleading association between Opposer and Applicant.

15. As a result of the similarity between LFP's Marks and Applicant's mark and the identical and/or highly related nature of the goods and services of the parties' respective marks, Applicant's mark is likely to cause confusion, mistake or deception in the trade and among purchasers as to the source, origin or sponsorship of the parties' respective goods and services.

16. As set forth in more detail above, LFP began use of both its HUSTLAZ and HUSTLER Marks in connection with its goods and services prior to Applicant's September 24, 2012 filing date for the Application.

17. Opposer's HUSTLER Marks are famous and distinctive within the meaning of the Lanham Act.

18. Opposer's HUSTLER Marks became famous long prior to the filing date of the Application.

19. Registration of the mark in the Application and use of Applicant's mark is likely to dilute and tarnish LFP's famous HUSTLER Marks.

20. Registration of Applicant's mark would result in damage to LFP pursuant to the provisions of 15 U.S.C. §§ 1114, 1115, and 1125, pursuant to the allegations stated above, and registration should be denied pursuant to 15 U.S.C. § 1052(d).

21. If the Application is permitted to register, the registration would presumptively entitle Applicant to *prima facie* exclusive ownership and rights to the LADY HUSTLAZ mark. Such registration would cause confusion among consumers as to the separate and distinct sources of Applicant's goods and services and LFP's goods and services and the relationship of LFP to Applicant, thereby damaging LFP's goodwill in the HUSTLER Marks, diluting the value thereof, and resulting in irreparable harm to LFP's business and reputation, all to the detriment of LFP who has expended considerable sums and effort in promoting the HUSTLER Marks.

22. Registration of Applicant's highly similar mark will lessen the capacity of Opposer's famous and distinctive HUSTLER Marks to distinguish and identify Opposer's goods and services from those of others, thereby diluting the distinctive quality of Opposer's HUSTLER Marks in violation of 15 U.S.C. § 1125(c), and causing damage to Opposer within the meaning of 15 U.S.C. § 1063.

23. Opposer would be damaged by registration of Applicant's Mark because registration would grant Applicant statutory rights under the Trademark Act of 1946, and would

tend to restrict, interfere with, and damage Opposer in the unhampered conduct of its business and protection of its legitimate interests.

WHEREFORE, LFP prays that this Opposition be sustained and that registration of U.S. Trademark Application Serial No. 85/736,967 be denied.

Dated: August 20, 2013

Respectfully submitted,

LFP IP, LLC, by its counsel
Lipsitz Green Scime Cambria LLP

By: /Jonathan W. Brown/
Jonathan W. Brown, Esq.
42 Delaware Avenue, Suite 120
Buffalo, NY 14202
(716) 849-1333 Ext. 371

CERTIFICATE OF FILING AND SERVICE

I, Lori Vangelov, hereby certify that on August 20, 2013, I caused a true copy of the foregoing Notice of Opposition to be filed electronically with the United States Patent and Trademark Office and served upon:

Semetra Brazle
11702 Mill Valley Road
Houston, Texas 77048

Dated: August 20, 2013

/Lori Vangelov/
Lori Vangelov